

**Cross-border evidence, gathering, digitalisation and IT
platform in the field of civil and commercial cooperation
within the European Union context**

Marie Banville

[DOI:10.5281/zenodo.17483169](https://doi.org/10.5281/zenodo.17483169)

Follow this and additional works at:
<https://yeucl.free.nf/index.php/yeucl>

Recommended Citation

Banville, M. (2025). Cross-border evidence, gathering, digitalisation and IT platform in the field of civil and commercial cooperation within the European Union context. *Yearbook of European Union and Comparative Law*, vol. 4, 93-133, Article 3

Available at:
<https://yeucl.free.nf/index.php/yeucl/issue/current>

This article is brought to you for free and open access by CEIJ. It has been accepted for inclusion in Yearbook of European Union and Comparative Law. For more information, please contact: YEUCL@usa.com

Cross-border evidence, gathering, digitalisation and IT platform in the field of civil and commercial cooperation within the European Union context

[DOI:10.5281/zenodo.17483169](https://doi.org/10.5281/zenodo.17483169)

Marie Banville, Post PhD in European Union Law, Australia

Abstract: The present paper seeks to investigate the evolution of digital justice, in recent years, in the discipline of civil and commercial matters, especially from Regulation (EU) no. 1783/2020. The main aspects, the attention to the provisions on electronic justice, the principle of the digital by default via digital channels as a default method of communication as well as the preferences among the competent authorities for the Member States are points of analysis and consideration. The relative coordination for national judicial systems, which passes through the inoperable and decentralized electronic platform, is based on e-justice communication via Online Data Exchange (e-CODEX). This electronic system, within the context of cross-border investigative assistance, takes a name through the system of the “taking of evidence” (ToE). Also the Regulation (EU) no. 850/2022 has highlighted important points in comparison with the old path followed in the digitalisation sector by the European

legislator and especially the e-CODEX platform, which discussed the use of a technology, that safeguards fundamental rights for procedural guarantees and individuals.

Keywords: e-governance; digital justice; digital by default; Regulation (EU) No. 1783/2020; e-CODEX, Regulation (EU) No. 850/2022; taking of evidence abroad; eu-Lisa; cross-border judicial cooperation; fundamental rights; taking of evidence (ToE); cross-border justice; IT platform.

Introduction

The challenge of digitalisation in the field of European Union law and in private international law, i.e. cross-border judicial cooperation, seems to be a requirement of the international context as well as a continuous opportunity for an ever-evolving digital transformation.¹

Regulations (EU) 2020/1783 and (EU) 2020/1784² are the recast

¹European Commission, Communication “Digitalising Justice in the European Union”. A Package of Opportunities”, COM(2020) 710 final, 2 December 2020; Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions. Commission Work Programme 2021. A vibrant Union in a fragile world, COM(2020) 690 final, 19 October 2020. Council Conclusions on “Shaping Europe’s digital future”, 2020/C 202 I/01, OJ C 202I, 16 June 2020, p. 1; Council Conclusions on “Access to Justice – Seizing the Opportunities of Digitalisation”, 2020/C 342 I/01, OJ C 342I, 14 October 2020, p. 1.

²Regulation (EU) 2020/1783 of the European Parliament and of the Council of 25 November 2020 on cooperation between the courts of the Member States in the taking of evidence in civil or commercial matters (taking of evidence) (recast), in OJ L 405, 2 December 2020, pp. 2 ff.; Regulation (EU) 2020/1784 of the European Parliament and of the Council of 25 November 2020 on the service in the Member States of judicial and extrajudicial documents in civil or commercial matters (‘service of

of a discipline for the taking of evidence abroad in civil and commercial matters, such as the notification for judicial and extrajudicial documents in this regard.³ These are regulations in a context that has changed since the pandemic, making the use of technologies necessary and sometimes leading to paralysis the judicial systems of the Member States (Velicogna, 2021).

The new regulations relating to the choice of the European legislator in a strategic and ambitious sector, establish the principle of digital as an extended digital channel, which forms new methods of communication.⁴

The first regulation, in Art. 31, par. 4 allows the possibility for Member States to notify and operate the information system of a decentralized nature. At the Union level, this trend leads to the future of civil and criminal judicial assistance as well as to a transition in the digital sector (Ontanu, 2023).

documents') (recast), *ibid.*, pp. 40ss.

³Council Regulation (EC) No 1206/2001 of 28 May 2001 on cooperation between the courts of the Member States in the taking of evidence in civil or commercial matters, OJ L 174, 27 June 2001, p. 1 et seq.; Regulation (EC) No 1393/2007 of the European Parliament and of the Council of 13 November 2007 on the service in the Member States of judicial and extrajudicial documents in civil or commercial matters, OJ L 324, 10 December 2007, p. 79 et seq.

⁴See the action plan of the Government 2016-2020.

The legal framework and the investigative activity in the cross-border sector

Starting from Regulation (EU) n. 1206/2001 and the model of the Hague Convention of 1970 we note an improvement at a Union level and in the judicial assistance in the civil and commercial sector of the Member States.

After the replacement of Regulation (EU) n. 1783/2020 and/or the Recast Regulation an original system with the key principles remains, which contains a basis of mechanisms for the evolution of cross-border judicial cooperation in the previous Regulation. In a *ratione temporis* scope, relating to the Recast Regulation, a complete change of rules takes place, which establish the instrument of a first generation digitalization.

Regulation n. 1783/2020 in application after July of 2022 highlights the related communication of the European Commission for the details and the competent authorities to take evidence.

The provisions also presuppose the establishment of a decentralised information system for the exchange of the relevant data, which will be postponed for the next few months, i.e. from 1st May 2025.⁵

⁵Commission Implementing Regulation (EU) 2022/422 of 14 March 2022 laying down the technical specifications, measures and other requirements for the implementation of the decentralised IT system referred to in Regulation (EU) 2020/1783 of the European Parliament and of the Council. C/2022/1451. OJ L 87, 15.3.2022, p. 5–8. Commission Implementing Regulation (EU) 2022/423 of 14 March 2022 laying down the technical specifications, measures and other requirements for the implementation of the decentralised IT system referred to in Regulation (EU)

The time frame continues to be valid for traditional means of transmission, requests and communications, according to Art. 6 of the Regulation (EU) n. 1206/2001 (Liakopoulos. 2018a; Liakopoulos, 2018b).⁶

The material application of the Recast Regulation does not go far from the orientation of the Regulation (EU) n. 1206/2001 in the field of civil and commercial matters. The relevant case law moves towards an autonomous and uniform concept for civil and commercial matters and it is not translated into a sum of the referral for the law of the Member States.

The Regulations do not take into account exceptions that are provided for by other European instruments and to the order of civil and commercial judicial cooperation. Furthermore, Art. 1, par. 2 of the Regulation (EU) n. 1215/2012 of the European Parliament and the Council of 12 December 2012 is related to jurisdiction.

However, the recognition of enforcement for decisions in civil and commercial matters is not noted in Regulation (EU) n. 1783/2020. Such a regulation is extended to the status and capacity of natural persons, to the matrimonial property regime

2020/1784 of the European Parliament and of the Council, C/2022/1417. OJ L 87, 15.3.2022, p. 9–13

6CJEU, 15 February 2007, Lechouritou and others, C-292/05, ECLI:EU:C:2007:102, I-01519, par. 29; 28 April 2009, Apostolides, C-420/07, ECLI:EU:C:2009:271, I-03571, par. 41; 27 February 2014, Cartier parfums, C-1/13, ECLI:EU:C:2014:109, published in the electronic Reports of the cases, par. 32; 3 April 2014, Hi Hotel HCF SARL, C-387/12, ECLI:EU:C:2014:215, published in the electronic Reports of the cases, par. 24.

and to relationships under the applicable laws, that have effects comparable to marriage, to bankruptcies and to procedures related to the liquidation of companies, legal persons in a state of insolvency as well as to procedures that are related to arbitration, maintenance obligations for family relationships, marriage, wills, successions, maintenance obligations mortis causa, etc.

The Recast Regulation does not apply to criminal, fiscal, customs, administrative matters and to state liability for omissions, actions relating to the exercise of prerogatives for public power.⁷ However, it is extended to criminal and administrative jurisdictions involved in civil and commercial matters.⁸ With its application are filled the legal gaps at a definitive level.

The investigative assistance formulates the judicial authority of a Member State that comes from other authorities external to the judicial system. It exercises the control functions at national level as well as take evidence for judicial proceedings in civil and commercial matters. Thus, the divergences for the Member States are neutralized through a combined orientation of art. 1, par. 1 and 2.⁹

⁷CJEU, 11 April 2013, Sapir, C-645/11, ECLI:EU:C:2013:228, published in the electronic Reports of the cases, par. 33; 5 July 2018, flyLAL-Lithuanian Airlines, C-27/17, ECLI:EU:C:2018:533, published in the electronic Reports of the cases, par. 30; 7 maggio 2020, Rina, C-641/18, ECLI:EU:C:2020:349, published in the electronic Reports of the cases, par. 34.

⁸Art. 1, par. 1 of the Regulation (EU) n. 1215/2012.

⁹Recital n. 5 of the Regulation (EU) n. 1783/2020 and Regulation (EU) n.

The relevant reference to judicial proceedings are excluded from the investigative requests of the competent authorities of the Member States, that follow an arbitration procedure and alternative rites, different from the normal ordinary justice. Arbitration tribunals are excluded from the notion of judicial authority and/or other authority.

The case law of the CJEU is not suitable for the administrative authority, that makes requests for judicial assistance.¹⁰ The expressed case law has a non-binding character for the investigative assistance procedures as well as for the related European legislation.

For example, in the Lippens case it is noted that the judicial authority of a Member State summons a witness, who is resident in another Member State as well as the freedom of evidence arguments are of non-appearance.

In ProRail Bv case, instead, the investigative cooperation was highlighted, which is not limited to a possibility of cross-border assumption without precluding the judicial authorities for other mechanisms in circumstances that are simple, fast and precise (Del Pilar Diago Diago, 2013; Nuyts, 2014; Cuniberti, 2015; Galic, 2017).¹¹

2019/1111, Regulation (EU) n. 650/2012 and (EU) n. 1215/2012.

¹⁰CJEU, 6 March 2018, Achmea, C-284/16, ECLI:EU:C:2018:158, published in the electronic Reports of the cases, par. 44-49.

¹¹CJEU, 6 September 2012, Lippens, C-170/11, ECLI:EU:C:2012:540, published in the electronic Reports of the cases, par. 28 ss.; 21 February 2013, ProRail BV, C-332/11, ECLI:EU:C:2013:87, published in the electronic Reports of the cases,

The Recast Regulation applies in cases, that the authority chooses the evidence relating to the modalities that are foreseen. Judicial authorities concern the national procedural law as well as the methods and instruments for the acquisition of an evidentiary material.¹²

What is meant by proof?

Through the investigative cooperation, the limitations imposed by general international law on territorial sovereignty are overcome facilitating, thus, the performance of cross-border evidentiary investigation, which favors access to evidentiary material. Art. 1, par. 2 of the Regulation (EU) n. 1783/2020 defines the requests for assistance, concerning the taking of evidence intended for pending and expected judicial proceedings.

In this context, the Recast Regulation is also involved, which applies in the judicial act and in the requested completion of an investigative nature. The application of the instrument for the acts has a precautionary nature.

The problems arisen are connected with the Regulation n. 1206/2001. The evidence through the Recast Regulation, without defining the pending and expected judicial proceedings, is an instrument of the acts of preventive investigation of the

par. 42 ss.

¹²Art. 29, par. 2 of the Regulation (EU) n. 1783/2020.

pre-trial discovery and of the provisions of evidentiary function with the purpose of exploration up to the fishing expedition.

Evidence has an autonomous nature in the Union law and must be understood, as a judicial measure for the acquisition of evidentiary material for the investigation of a trial independently from that provided for by the procedural systems of the Member States.

This concept absorbs the technical consultancy of the office,¹³ as a direct expert opinion, which integrates the investigative knowledge of the authority as well as as a precise means of proof to a cooperative system, which implements the Recast Regulation to a paradigm of investigative activity of a free nature.

Regulation (EU) No 1783/2020 does not provide pre-trial discovery on fishery expeditions. The issues, according to the statement of No 54/01 of the Council,¹⁴ relating to the adoption of Regulation (EU) No 1206/2001, exclude the pre-trial discovery for investigations that fall under a European discipline, in this regard. This statement comes from the position of the conclusions of the advocate general Kokott in the German case.¹⁵

¹³See Art. 19, par. 3 and art. 22, par. 2 of the Regulation (EU) n. 1206/2001.

¹⁴Council of the European Union, 4 July 2001, Declaration No. 54/01, doc. 10571/01, p. 16.

¹⁵CJEU, 18 July 2007, Tedesco, C-175/06, I-07929, ECLI:EU:C:2007:552.

The Advocate General highlighted that intellectual property, as a procedure for ascertaining objectives ante causam, constitutes an assumption of evidence under Regulation (EU) No 1206/2001.¹⁶

The Advocate General excluded pre-trial discovery and the statement of the Council, that does not interpret and excludes the scope of application of an instrument for preventive investigation measures, which seeks to acquire evidence for elements, that raise doubts regarding the subject matter of a future proceeding.

The precautionary nature does not have the objective of claiming in fact and in law, that the plaintiff is comparable to the provisional, precautionary and regulated measures, according to Art. 24 of the Brussels Convention of 1968 and as a replacement of the Regulation (EU) n. 44/2001, Brussels I and the Regulation (EU) n. 1215/2012.¹⁷

In this context, in the St. Paul Diary case the judges of the Kirchenberg denied the provision to secure a witness prior to the introduction to a trial, that allows and evaluates the exercise of a power of action, as classifiable to a precautionary measure within the scope of the Brussels Convention of 1968.

In this case, we note the limit of the interpretative doubt on

¹⁶Conclusions of the Advocate General J. Kokott, 18 July 2007, Tedesco, C-175/06, ECLI:EU:C:2007:451, par. 70ss.

¹⁷Brussels Convention of 27 September 1968 on jurisdiction and the enforcement of judgments in civil and commercial matters, OJ C 027, 26 January 1998, pp. 19-27.

provisions of conventions, that leave the preventive examination to a subject that enters into the European discipline of investigative cooperation.¹⁸

Towards an electronic justice

The cross-border legal cases, through the judicial authorities of the countries of the Union and the Regulation (EU) n. 1783/2020, with reference to the obligation, that is provided by art. 7 of the same regulation, needs electronic communication. More precisely, it needs a decentralized and interoperable information system.¹⁹

For the digital transmission regarding requests for assistance of data and information prefers the exceptions, expressed by rules of the article under examination and by other methods of exchange of a paper nature. The electronic medium, thus, seeks to cancel the distance within the proof, that requires the state to be taken into account.

Instead, according to Art. 7, par. 4 of the Regulation (EU) n. 1783/2020, analog documents and the original medium constitute an exception that justifies the objective reasons of an IT platform and the evidence that transmits such a telematic channel.

¹⁸CJEU, 28 April 2005, St. Paul Dairy, C-104/03, ECLI:EU:C:2005:255, I-03481, par. 23 ss.

¹⁹Art. 5, par. 1 of the Regulation (EU) n. 1784/2020.

The alternative means, required in relation to blood and DNA samples, are necessary for the paper format to authentically assess the volume of documents to be converted into an electronic format, that involves a disproportionate administrative burden for the competent authorities.

The recital n. 7 and 12 in a discretionary way, concerning the choice of an alternative means for the criteria of the Recast Regulation, recognizes the transmissions on an IT platform. Such an exchange of information is developed between Member States excluding the involvement of the European institutions ensuring, in such a way, the speed, reliability and security. The possibility of a postal service exploits other modern technologies for communication, according to the Recast Regulation.²⁰

The forms of electronic transmission for evidence made abroad involve a dematerialization of the contextual digitalization. The material rule of Art. 8 of the Recast Regulation uses the digital instrument for national legal proceedings in order to compromise the dematerialization of the document.²¹ In this way, legal effects are denied for documents that transit the decentralized computer system, thus, considering documents inadmissible, as evidence for the electronic form.²²

²⁰Art. 7 par. 4 and recital n. 12 of the Regulation (EU) n. 1784/2020.

²¹Art. 6 of Regulation (EU) No. 1784/2020, which perfectly overlaps with Art. 8 of Regulation (EU) No. 1783/2020.

²²According to Art. 8 of the Regulation: “(...) transmitted through the

The principle of equivalence between analog and electronic documents has as its objective a European regulation, for the procedural laws of the Member States, that overcome the limits and resistances regarding the use of digital technologies for the transmission of data, information and evidentiary purposes.²³

The prohibition, which is established by art. 8 of the Regulation (EU) 1783/2020, is addressed exclusively to evidence, that forms, presents without prejudice to any other type of procedural filter, which is provided by national law within the European context. The principle of procedural autonomy, informs national judges, the admission, validity, evidentiary value of an informative document, which continues, according to national rules, to be valid according to recital no. 13 on the matter relating to the conversion of acts.²⁴

Instead, recital no. 12 and 13 of the Recast Regulation correspond to the passage of the analog document to the digital

decentralised IT system (...); in French: “(...) les documents transmis au moyen du système informatique décentralisé (...)”; in spanish: “(...) se denegarán efectos jurídicos a los documentos que se transmitan a través del sistema informático descentralizado (...)”. Regulation (EU) No 910/2014 of the European Parliament and of the Council of 23 July 2014 on electronic identification and trust services for electronic transactions in the internal market and repealing Directive 1999/93/EC, OJ L 257, 28.8.2014, p. 73–114, p. 73ss. Art. 3, par. 35 of the Regulation eIDAS and Regulation (EU) 2022/850 of the European Parliament and of the Council of 30 May 2022 on a computerised system for the cross-border electronic exchange of data in the area of judicial cooperation in civil and criminal matters (e-CODEX system), and amending Regulation (EU) 2018/1726 (Text with EEA relevance), PE/87/2021/REV/1, OJ L 150, 1.6.2022, p. 1–19.

²³Art. 46 of the Regulation eIDAS.

²⁴Recital n. 13 of the Regulation (EU) n. 1783/2020.

one, that does not lose the judicial authority of the applicant of an original support, who thus finds the evidentiary material (Richard, 2021).

Recital no. 12 includes exceptions for the digital transmission of documents without allowing the conversion of their dematerialization through scanning. In the absence of a uniform discipline, regulatory standards for best practices are applied, which are optimized by each Member State.

The e-CODEX system

The European legislator has been following the path of a homogenized system for electronic transmissions for years. Starting from the objectives of interoperability and decentralization provided for by the Regulation (EU) n. 1783/2020 in the field of civil and commercial judicial cooperation, as an action of the Union in this sector.

A sector that does not configure the principles of proportionality and subsidiarity in a competitive and explicit way. Cross-border communications take place towards a decentralized counterpart, which thus compromises the single storage structure that each Member State has autonomously and individually stores the data, according to what is provided for by the Regulation (EU) 2022/850.²⁵ In other words, this is a European system that

²⁵European Commission, Report on the proposal for a Regulation on a computerised communication system in cross-border civil and criminal proceedings (e-CODEX system) and amending Regulation (EU) 2018/1726, COM (2020) 712

contains a platform, that cumulatively satisfies the conditions of the e-Justice Communication via Online Data Exchange (e-CODEX), as access points for the Member States, which allow connection with unified electronic protocols and standardized digital forms.

The e-CODEX does not involve changes to replace national IT systems, such as the back-end, that was already in practice in the past. The e-CODEX has managed a consortium for twenty-one states, as well as for third countries and professional associations (Velicogna, Lupo, 2017).

Regulation (EU) No 850/2022 implements the e-CODEX, i.e. the digital technology of the Union to an information system, as an open source under the aegis of the Union. It has no legal basis, within the legal system of the Union. The definition of the digital governance, within a gradual transition from the European Agency for the operational management of IT systems, deals on a large scale with an area of security, justice and freedom (eu-LISA) (Faggiani, 2024).²⁶

The know-how had matured within the years by eu-LISA, thus ensuring the sustainability of the e-CODEX, through an final, 2 December 2020.

²⁶Art. 1, par. 4 of the Regulation (EU) n. 850/2022 and Commission Implementing Decision (EU) 2022/2519 of 20 December 2022 on the technical specifications and standards for the e-CODEX system, including for security and methods for integrity and authenticity verification (Text with EEA relevance). C/2022/9144, OJ L 326, 21.12.2022, p. 25–33. Commission Implementing Decision (EU) 2022/2520 of 20 December 2022 on the specific arrangements for the handover and takeover process of the e-CODEX system (Text with EEA relevance). C/2022/9145. OJ L 326, 21.12.2022, p. 34–56.

organizational structure and a management board, which ensures the decisions and actions of the European Agency, respecting at the same time the principle of independence in the judicial sector.²⁷

In fact, the platform system embraces Regulations (EU) No. 1896/2006 on the European Payment Order and Regulation No. 861/2007 on Small Claims Litigation (Mellone, 2014). The coordination between the Union and the Conference of the Hague on Private International Law, as well as the i-Support software for the communication and management of cases, recover maintenance credits and exploit the infrastructure of the e-CODEX.²⁸

The European discipline on investigative assistance for the e-CODEX is an example of interoperable and decentralized technology, that puts the IT platform to a subsequent act, such as the execution of the Commission that issues the prior committee procedure, according to Regulation (EC) No. 182/2011.²⁹

The Implementing Regulation (EU) 2022/422 establishes the IT system by extrapolating from Regulation (EU) 2020/1783 any

²⁷Art. 13 of the program e-CODEX and art. 15 of the Regulation (EU) n. 850/2022.

²⁸Regulation (EU) No 1382/2013 of the European Parliament and of the Council of 17 December 2013 establishing a Justice Programme for the period 2014 to 2020 Text with EEA relevance, OJ L 354, 28.12.2013, p. 73–83.

²⁹Artt. 25 and 26 of the Regulation (EU) n. 1783/2020. Art. 25 of the Regulation (EU) No 182/2011 of the European Parliament and of the Council of 16 February 2011 laying down the rules and general principles concerning mechanisms for control by Member States of the Commission's exercise of implementing powers, OJ L 55, 28.2.2011, p. 13–18.

doubt, that makes the use of the e-CODEX. The cross-border taking of evidence and the exchange that calls the taking of evidence are based on e-CODEX.³⁰

The software, which refers to the former Art. 27 of the Regulation (EU) n. 1783/2020, represents the trait d'union between the national computer network of the e-Codex, allowing, in such a way, access to the system, which directs the platform to electronic exchanges. Its adoption is left to the Member States, which updates the use of a back-end application developed by the Commission.

Experiences in the field of judicial assistance, especially in the criminal sector, find an initial solution through the e-Evidence Digital Exchange System (e-EDES) (Miloud, Nicolau, 2003; Gascon Inchausti, 2024).

(Follows). Transmission mechanisms

For the transmission of procedures we note Regulation (EU) n. 1783/2020, which provides for the methods of acquiring evidentiary material abroad, i.e. the legal assistance procedure of the ex art. 1, par. 1, lett. a) corresponding to the active rogatory. Similarly, we note the passive legal assistance according to artt. 1, par. 1, lett. b) and 19.

³⁰Annex I of the Commission Implementing Regulation (EU) 2022/422 of 14 March 2022 laying down the technical specifications, measures and other requirements for the implementation of the decentralised IT system referred to in Regulation (EU) 2020/1783 of the European Parliament and of the Council, C/2022/1451, OJ L 87, 15.3.2022, p. 5–8.

The authority requesting the rogatory performs a procedural act. Requests for passive legal assistance and the process authority ask the Member State about the evidence that is placed and obtains the relative consent by the investigative activity.

Active legal assistance is the subject of direct transmission between judicial authorities, as established by art. 3.³¹ Requests for passive legal assistance are examined and controlled by a central body for each Member State, according to art. 4, par. 3. In this way, tasks of a general nature for cross-border cooperation and for the provision of information, that resolves problems inherent to requests for assistance and information that resolves intermediary problems between judicial authorities, are entrusted.

The essential elements are common for the types of requests and the language regime, according to Articles 5 and 6. Thus, the standardization index and the pre-filled forms facilitate the formulation of a request, that allows the correct evaluation and execution by the judicial authority.³²

The transmission mechanism ensures the efficiency and certainty of the subjects involved in the exchange. The communications need and present the seals of a normative autograph form on the investigative cooperation referred to the

³¹Art. 2 of the Regulation (EU) n. 1206/2001.

³²Annex I of the Regulation (EU) n. 1783/2020.

eIDAS Regulation and to the qualified trust services.³³

The solutions of the eIDAS regulation, in relation to the operation of a decentralized IT system, are part of a further recognition of the digital document of the legal status, which respects in an equivalent way the common practice of the use and recognition of electronic signatures and seals, for cross-border judicial procedures (Vicario Perez, 2024).

(Follows). The related recruitment mechanisms

The Regulation (EU) n. 1783/2020 relating to the active judicial assistance procedure and particularly its articles 12-18 lay the foundations for the recruitment mechanisms. In this regard, art. 12, par. 1 establishes, within the term of the ninety days from receipt, to execute the request for investigative assistance. For any delays they must communicate the requesting authority. The judicial authority requests the transmission of the relevant documents to the process authority.

The transmission is granted to the requested authority of the Member State, in this regard, according to par. 2 of art. 12. The rule of the principle of territoriality to a procedural law, thus, welcomes the generality of the legal systems.

The *lex fori* allows and gives rise to an authority, which invests the request and adopts the investigative act, the criterion of appropriateness as provided for by art. 15, that is, coercive

³³Art. 1, lett. c) of the Regulation (EU) n. 910/2014.

measures, which affect the freedom of the subject, who has been affected.

The principle of territoriality of the relevant procedural law provides the possibility for the requesting authority to request assistance, which is followed by a procedure provided for by the national law of a Member State.³⁴

The relevant authority, thus, requests in a manner compliant with the law of the country the request of such a procedure that is not in conflict with the law of the state, which does not allow its relative execution.

The spirit of innovation and digitalization of the Recast Regulation and art. 12, par. 4 highlight that the authority requires the use of technologies for communication even at a distance via teleconference and video conference. This is an option according to the requirements of compatibility with the *lex loci* and the practice of the technical means, according to art. 10, par. 4, which constitutes techniques that speed up the taking of cross-border evidence.

The parties and their lawyers allow to the requesting authority the right to participate in an investigative act that, according to art. 13, par. 1 and 2, informs the request for assistance at the appropriate time.³⁵

³⁴Art. 12, par. 3 of the Regulation (EU) n. 1783/2020.

³⁵Art. 13 of the Regulation (EU) n. 1783/2020.

The role of the parties, lawyers for the taking of evidence and the principle of territoriality subordinate the conditions for the authority requested by the law of their state. The authority that requests, according to art. 13, par. 3 and 4, the relevant notification to the interested subjects gives rise to the procedures and to conditions, that establish their participation in an active manner.

The rights of participation for the needs of a fair trial, after the requested authority, is in accordance with the procedural law in the absence of applications promoted for the requesting authority involving the parties and lawyers.

According to Art. 14, the presence and participation of the delegates to the requesting authority are not of their own initiative. The term delegate includes the magistrates related to the proceeding authority within the national law, as well as other persons, such as the court-appointed technical consultant.³⁶

The relative role of the delegates is limited to passive and active assistance for an economy of the process, which provides the judge with a better understanding of the forms of execution and the results obtained. Articles 19-21 relating to the judicial assistance procedure are based on a detail of Section IV, chapter II of the Recast Regulation.

³⁶Art. 14, par. 2 of the Regulation (EU) n. 1783/2020.

An intense filtering action is requested from the central body of the state, that expresses the request for assistance, thus specifying the conditions of a national law to close the investigative act.³⁷

The judicial authority of the state presents and participates in the investigative activity with the aim of guaranteeing and establishing the assistance of the requesting authority. The concurrence of the *lex loci* and *lex fori* processus regulates the taking of evidence. The absence of conditions for the requesting authority, according to art. 19, par. 8, leads to the application of the law for the Member State.³⁸

The jurisdiction performed for the investigative act does not require a differentiated treatment that habitually respects the internal procedural rules. The evidentiary instruction directly executes the requesting judicial authority and proceeds on a voluntary basis without the use of coercive measures.

Art. 20 of the regulation conducts a video conference using appropriate communication technology to determine the precise situation. The executing authority agrees on the practical modalities and on the presence of the interpreter. According to Art. 19, par. 5, the body makes its decision no later than 45 days after receipt of the accusation.

³⁷Art. 19, par. 4 of the Regulation (EU) n. 1783/2020.

³⁸Recital n. 21 of the Regulation (EU) n. 1783/2020.

After thirty days of confirmation of receipt, the authority requests a reminder after fifteen days. The absence of a response and the Regulation (EU) No. 1783/2020 link the relative inertia of the body, that entrusts the effects with the acquiescence and the authority, that proceeds and considers its own request.

In exceptional circumstances, the expiry of the deadline and the time of execution of the procedural act to refuse the direct taking of evidence remain unresolved. Art. 21 of the Recast Regulation establishes, for the first time, a mechanism for taking evidence abroad by diplomatic agents and consulates in the Member State, where the evidence takes place.

The powers of coercion carry out the evidentiary activity for the premises and the respective missions on behalf of requesting authorities, allowing for the citizen of the accrediting state to appear voluntarily. The accrediting state does not ask for regulating acts of the *lex processus*.

Procedural laws, technological means and rejection of the request for investigative assistance

The effectiveness of the Regulation (EU) n. 1783/2020 on judicial cooperation creates mutual trust between Member States, thus creating problems for the parties involved in the judicial procedure, which characterizes its transnationality.

The reasons, which deny the request for an instrument for the procedure of taking evidence through the requested authority, are established according to art. 16. Art. 19, par. 7 deals with the procedure of direct taking of evidence abroad.

Art. 16 in the first paragraph shows the reasons for refusal, that are opposed by the requesting authority. In this way, the control of a witness is highlighted and calls the right, obligation to abstain from the law of the Member State of the requested authority. The requesting authority, thus, facilitates the execution of the request and specifies the rights, obligations of abstention, which are provided for by national law.

Indications for situations creating doubts and/or abuse of procedural law provisions. Additionally, the authority of the requested state, that requests its own attestation, is omitted.

The control of the individuals, entitled to the faculty to abstain and keep silent the refusal of a legitimate request, occurs for reasons, that are part of art. 16, par. 2. Thus, it presents itself, as a stylistic clause for the authority, that refuses and carries out the investigative act outside the scope of the Recast Regulation.

The execution, that is refused falls outside the attributions of the judicial power, according to the law of the requested Member State. The authority, in a macroscopic way, carries out the act, that depends on individual legal systems for investigative

assistance with formal and customary differences for the *lex fori* and the *lex processus*.³⁹

The assistance, that the requesting authority denies, is missing from the request, that completes the receiving authority integrating a deficient request. In this way, the opinion of an expert is verified for the requesting authority regarding the invitation as well as for the receiving authority, that constitutes the deposit and pays in advance the costs of the operations for its own expert.

The grounds for refusal, according to art. 16, par. 3, lead the authority to request and proceed with the taking of evidence, considering the exclusive jurisdiction over a dispute, in accordance with national law, which belongs to another judicial authority of a Member State.

The investigative act executes the *lex fori*, which comes from the requested authority, without contemplating the action of the specific case. The denial of assistance justifies the reasons leading to an outcome, that is not reasonable for the purposes of the Recast Regulation. The facts and the proceedings before the requesting judge continue to the definition of a dispute, which weakens the access to effective judicial protection of mutual trust between the judicial bodies of the Member States in the field of cross-border judicial cooperation.

³⁹Recital n. 16 of the Regulation (EU) n. 1783/2020.

The incompleteness of a request concerning the extraneousness of the Regulation (EU) No. 1783/2020, refers to the public order exception, according to par. 7, letter c) of art. 19. The limit to public order is interpreted, *ex multis*, by the judges of *Kirchenberg* in judicial cooperation concerning civil and commercial matters.⁴⁰

Public order operates and maintains a harmony, that prevents the values, principles from foreign procedural rules in the national system. The investigative activity leads to a territory of a partial nature and assistance that does not conflict with the fundamental principles of execution. This obstacle assumes, for modern telecommunication technologies, a cross-border investigative activity.

The technological means is capable of speeding up the time of assumption for the evidence and the distorting effects of the procedural guarantees. For civil and commercial proceedings some countries of the Union use various technologies. For some other countries, however, the use of technologies is excluded.

As regards videoconferencing and teleconferencing techniques, they are valid reasons for the denial of active and passive assistance. This situation is admissible and concerns a

⁴⁰CJEU, 10 October 1996, *Hendrikman*, C-8/95, ECLI:EU:C:1996:380, I-03175, par. 23; 4 February 1988, *Hoffmann*, C-145/86, ECLI:EU:C:1988:61, I-00645, par. 21; 28 March 2000, *Krombach*, C-7/98, ECLI:EU:C:2000:164, I-01935, par. 21; 11 May 2000, *Maxicar SpA*, C-38/98, ECLI:EU:C:2000:225, I-02973, par. 26.

vulnerable subject (Liakopoulos, 2019b).⁴¹

Public order seems to explicitly refuse, according to art. 19, par. 7, the passive legal assistance procedure. The limit of public order is interpreted correctly by art. 12, par. 4., which establishes the scope of the procedure for active legal assistance. In this way, the requesting authority requires a technology that is not incompatible with fundamental rules of the legal system considered.

Cross-border investigative assistance to national law, according to the relevant article, is not sufficient to establish a refusal based on the difference between procedural laws, thus regulating the modalities and the related formulations.

Data that safeguards fundamental rights

The continuous evolution of human rights, according to the principle of the digital by default, follows the good administration of justice for the joints. The telematic tools, through the methods of use, exercise rights of action and defense, as expressions of the judicial protection, that accesses the relative evidence.

The compatibility of the technology used guarantees and respects the fundamental rights and freedoms within the area of

⁴¹CJEU, 22 December 2010, Aguirre Zarraga, C-491/10 PPU, ECLI:EU:C:2010:828, I-14247, par. 67: “(...) return proceedings included within the scope of Council Regulation (EC) No. 2201/2003 of 27 November 2003 (...) positively on the possibility of having recourse to the mechanisms established by Regulation (EC) No. 1206/2001 for carrying out the hearing of the minor (...)”.

freedom, justice and security. The values of the Union defend and promote the European Declaration on Digital Rights and Principles, as an objective that creates a precise, accessible and exclusive digital space.⁴²

Regulation (EU) No. 1783/2020 refers to the general provision, which respects fundamental rights and freedoms (Liakopoulos, 2019a). Art. 7 highlights the transmissions, which are required for communications and the preamble, which contains exhaustive references.

Art. 32 of Regulation (EU) No. 1784/2020 affirms the principles of equality regarding access to justice and non-discrimination. This regulation is also connected with the protection of personal data and private life. Art. 4 of Regulation (EU) No. 850/2022, as it was established through the e-CODEX leads in a transversal way to a coordination of the Union instruments, that support the dematerialized exchange technology.

Non-discrimination is a principle for the Union, that seeks to create an area of freedom, security and justice, according to Art. 67 TFEU (Kellerbauer, Klamert, Tomkin, 2024), as well as a cross-border investigative cooperation with direct manifestation (Liakopoulos, 2019c; Kellerbauer, Klamert, Tomkin, 2024).⁴³

The access to civil justice is based on Art. 47 CFREU and Art.

⁴²European Declaration on Digital Rights and Principles for the Digital Decade, OJEU C23/1 of 23 January 2023.

⁴³Artt. 67 and 81 TFEU, art. 2 TEU; art. 18 TFEU art. 21 CFREU.

6, par. 1 ECHR, contributing towards an orientation of minimum elements, essential for the correct exercise of a jurisdiction for a fair trial. Recital no. 30 and 31 of the Regulation (EU) no. 1783/2020 calls for precise rules of the CFREU, thus, encouraging the use of a digital channel for the collection, protection, presentation of evidence. That is, an instrument that respects the procedural rights of the parties.

The e-CODEX platform and the continuous technological evolution, as a challenge to the protection of personal data, represents a primary objective for the Union, according to Art. 16 TFEU and Art. 8 CFREU. It is also a digital era, which ensures respect for private and family life for individuals and the protection of rights, according to Art. 7 CFREU and Art. 8 ECHR.

Art. 30 of Regulation (EU) No. 1783/2020 together with recital No. 32 and the transmission of personal data processing by the competent authorities, subject the regime established by Regulation (EU) 2016/679 on data protection (RGDP) (Liakopoulos, 2020)⁴⁴. A protection is addressed exclusively to natural persons, according to Art. 4, par. 1 RGDP (Bygrace, Tosoni, 2020), allowing, thus, the protection of legal persons.

⁴⁴Regulation (EU) 2016/679 of the European Parliament and of the Council of 27 April 2016 on the protection of natural persons with regard to the processing of personal data and on the free movement of such data, and repealing Directive 95/46/EC (General Data Protection Regulation) (Text with EEA relevance), OJ L 119, 4.5.2016, p. 1–88

This orientation is based on the Manni case.⁴⁵ It is a statement of personal data, which according to Art. 2, par. 1 of Directive 95/46/EC then replaced by Regulation (EU) 2016/679, has expanded the information regarding legal persons as well as allowing and identifying an individual directly and indirectly. The name of a company identifies a natural person also through an email, telephone number, etc.

The information about the natural person is placed in a professional activity, that is not suitable to deprive the qualification of personal data. Legal persons benefit from the protection of a regulatory act, that implements Directive No. 2002/58/EC, relating to private life as well as electronic communications (e-Privacy Directive).⁴⁶

Directive 2002/58/EC and Regulation (EU) 2016/679, as special reference points, constitute and complement the general provisions contained in Regulation (EU) 2016/679.⁴⁷ The relative silence of the Directive and the principles, that have to do with the processing of personal data, are requirements for the

⁴⁵CJEU, 9 March 2017, Manni, C398/15, ECLI:EU:C:2017:197.

⁴⁶Directive 2002/58/EC of the European Parliament and of the Council of 12 July 2002 concerning the processing of personal data and the protection of privacy in the electronic communications sector (Directive on privacy and electronic communications). OJ L 201, 31.7.2002, p. 37–47.

⁴⁷Regulation (EU) 2016/679 of the European Parliament and of the Council of 27 April 2016 on the protection of natural persons with regard to the processing of personal data and on the free movement of such data, and repealing Directive 95/46/EC (General Data Protection Regulation) (Text with EEA relevance), OJ L 119, 4.5.2016, p. 1–88.

lawfulness of processing for the de jure derogations, that are compatible with Art. 5, 6 and 23 GDPR.

Within this context, the principle of data minimization, codified by Art. 5, par. 1, letter c) GDPR, as well as by Regulation (EU) no. 1783/2020, lays the foundation for data controllers, who are based on Art. 30, par. 2, i.e. the erasure of personal data, that are acquired and are not adequate and limited in a necessary way with the purposes, which are processed.

The exchange of information is carried out with the institutions, bodies, offices and agencies of the Union under the requirements of Regulation (EU) 2018/1725, such as the processing of personal data for natural persons.⁴⁸

Exchange of evidence assumption (ToE)

The exclusion, interruption of extraordinary maintenance operations due to breakdowns and other unforeseen events form the extraordinary maintenance operations.⁴⁹ Art. 28 of the Recast Regulation, which is actually part of art. 9 of the Regulation (EU) n. 850/2022, establishes for the Member States the costs of installation, operation, maintenance and access points for the

⁴⁸Regulation (EU) 2018/1725 of the European Parliament and of the Council of 23 October 2018 on the protection of natural persons with regard to the processing of personal data by the Union institutions, bodies, offices and agencies and on the free movement of such data, and repealing Regulation (EC) No 45/2001 and Decision No 1247/2002/EC (Text with EEA relevance). PE/31/2018/REV/1. OJ L 295, 21.11.2018, p. 39–98

⁴⁹Annex I, par. 6 of the Regulation (EU) 2022/422.

exchange, that make up the gateway.

The same applies to the costs of creation, which update the respective national systems to make them interoperable. This type of activity is linked to the good functioning, that has been revealed difficult for economic reasons. The Member States ask for grants and participate in the initiatives and financial programs of the Union, namely the Next Generation EU (NGEU), bridging, in such a way, the digital gap of domestic IT equipment (Ontanu, 2023).

The European Commission takes a position on the development, maintenance of the software to be used free of charge and at the discretion of the Member States, offering, in such a way, operations that complement the budget of the Union.

The gateway of the European Commission manages the access points.⁵⁰ These entities are liable under the applicable law for damages, which arise from the operation, as an access point, which has been authorised by the e-CODEX and by any system that is connected to it.⁵¹

The role of the entity, as manager of the e-CODEX, is listed in Art. 7 of the Regulation (EU) n. 850/2022. The European agency eu-LISA fulfills its duties, that is, maintaining the level of IT security of software and hardware type. These tasks are covered by the European budget.

⁵⁰Art. 7 and recital n.20 of the Regulation (EU) n. 850/2022.

⁵¹Art. 9, par. 3 of the Regulation (EU) n. 850/2022.

The commitment to continue the related development and correction for errors and the release of updates includes those related to digital procedural standards, as a platform that is interoperable and decentralised. Furthermore, the eu-LISA based on the Union is part of the e-Justice (i.e. the e-Justice Core Vocabulary), which depends on the interoperability and uniform interaction of the Member States (A.A.V.V., 2019).

Conclusions

European e-Justice, as a multi-annual action plan, dates back many years ago, that is, through the design of the platform of the e-CODEX. The adaptation and potential of the Union, towards a technological innovation applied to judicial systems, is linked to the establishment of a European judicial network in civil, commercial and criminal matters. These systems are accessible to e-Justice⁵² thus anticipating the results that follow interoperability and IT decentralization.

522001/470/EC: Council Decision of 28 May 2001 establishing a European Judicial Network in civil and commercial matters. OJ L 174, 27.6.2001, p. 25–31. Council Decision 2008/976/JHA of 16 December 2008 on the European Judicial Network. OJ L 348, 24.12.2008, p. 130–134. Art. 23, par. 1 of the Regulation (EU) n. 1783/2020.

The steps taken by Regulation (EU) No. 1783/2020 and 1784/2020 lay the foundations for monitoring and evaluating the actual impact of the tools for good functioning for the collective benefit of users.⁵³

The greater use for users, who allocate and expand the legislative steps, aims to fill the gaps of the e-CODEX as well as the procedures and elements of extraneousness, which fall within the scope of application, within the civil, criminal and commercial sector of judicial cooperation.⁵⁴

Regulation (EU) No. 1783/2020 does not differ from its predecessor. Regulation (EC) No. 1206/2001 is now “old” to exploit technological developments, i.e. mechanisms of investigative assistance that reveals in an advanced manner and reproduces a discipline to an environment, that is oriented towards a digital medium.⁵⁵

⁵³Art. 32, 33, 35 of the Regulation (EU) n. 1783/2020 and Art. 16 of the Regulation (EU) n. 850/2022 and Commission Implementing Decision (EU) 2022/2519 of 20 December 2022 on the technical specifications and standards for the e-CODEX system, including for security and methods for integrity and authenticity verification, op. cit.

⁵⁴Regulation (EU) 2023/2844 of the European Parliament and of the Council of 13 December 2023 on the digitalisation of judicial cooperation and access to justice in cross-border civil, commercial and criminal matters, and amending certain acts in the field of judicial cooperation, PE/50/2023/REV/1, OJ L, 2023/2844, 27.12.2023.

⁵⁵Directorate-General for Justice and Consumers, Study to support the preparation of an evaluation and impact assessment for the modernisation of the judicial cooperation in civil and commercial matters: service of document, Publications Office, 2018, pp. 1-232.

The direct assumption of the relevant evidentiary material by diplomatic and consular agents, as provided for by the Recast Regulation and the Convention of the Hague of the 1970, remains compared to a single novelty, i.e. the ToE system, a decentralized IT platform.

The profiles of digital means are problematic, which the European legislator thus summarizes within the terms of couples, i.e. independence of the judiciary, protection of personal data, speed and circulation of personal data, rule of law.⁵⁶

The digital transition strengthens cross-border judicial cooperation, as a balance of the factors that are conflicting with modern information and communication technologies, and also assuming the function of a hard core for the common principles and values on which the Union is founded.

The Recast Regulation makes the European judicial area, as an integrated system for access to justice across internal, national borders. The digital era brings forth phenomena, that are difficult to understand and regulate for cyber attacks (Marchal Escalona, 2022).

⁵⁶European Parliament, Report on the proposal for a Regulation of the European Parliament and of the Council on a computerised communication system in cross-border civil and criminal proceedings (e-CODEX system) and amending Regulation (EU) 2018/1726, 14 October 2021, A9-0288/2021.

This is a problem that considers such criminal acts to be aimed at institutional entities, that have custody of personal data. Thus, issues are revealed and addressed at a Union level given the decentralized architecture and inoperability of the e-CODEX, as a responsibility, that affects data that are the object of exchange, that weighs mainly on the Member States.

References

- AA. VV., (2019). Connecting the European e-Justice Community: Towards a New Governance Model for e-CODEX. *Ciências e Políticas Públicas*, 5 (1), 33-51.
- Bygrace, L.A., Tosoni, L. (2020). Article 4(1). Personal data. In C. Kuner, L.A. Bygrace, C. Docksey (eds.). *The EU General Data Protection Regulation (GDPR). A Commentary*. Oxford University Press, Oxford
- Cuniberti, G. (2015). L'expertise judiciaire en droit judiciaire européen. *Revue critique de droit international privé*, 104 (3), 519-540.
- Del Pilar Diago Diago, M. (2013). The Regulation 1206/2001 on Cooperation between the Courts of Member States in the field of obtaining evidence in civil and commercial matters: an analysis of its obligatory, imperative and exclusive nature. *Revista electronica de estudios internacionales*, 15, 1-25.
- Faggiani, F. (2024). Digitalisation of criminal justice in the EU through eu-LISA cooperation with Eurojust and Europol: between extraordinary potential and persistent opacity. *UNIO-EU Law Journal*, 10 (2), 40-56.
- Galic, A. (2017). Open issues concerning the non-mandatory character of the Cross-Border Taking of Evidence Regulation. *Era Forum*, 18 (3), 213-228.

Gascòn Inchausti, F. (2024). The new regulation on the digitalisation of judicial cooperation in the European Union: something old, something new, something borrowed and something blue. *ERA Forum*, 24, 535-552.

Kellerbauer, M., Klamert, M., Tomkin, J. (2024). *Commentary on the European Union treaties and the Charter of fundamental rights*. Oxford University Press, Oxford.

Liakopoulos, D. (2018a). Interactions between European Court of Human Rights and private international law of European Union. *Cuadernos de Derecho Transnacional*, 10 (1), 248-305.

Liakopoulos, D. (2018b). The influence of EU law on national civil procedural law: Towards the adoption of common minimum standards?-La influencia de la legislaciòn de la UE en el derecho procesal civil nacional: ¿hacia la adopciòn de normas minimas comunes?. *Revista General de Derecho Europeo*, n. 46.

Liakopoulos, D. (2019a). Procedural harmonization, mutual recognition and multi-level protection of fundamental procedural rights. *Revista General de Derecho Procesal*, 47, 4ss.

Liakopoulos, D. (2019b). Modification and revision of Regulation 2201/2003 (Bruxelles Ibis). *Juris Gradibus-working paper*.

Liakopoulos, D. (2019c). Integration and cooperation of international and European private law according Charter of the Fundamental Rights of the European Union. *Cuadernos de Derecho Transnacional*, 11 (2), 150-193.

Liakopoulos, D. (2019d). Procedural harmonization, mutual recognition and multi-level protection of fundamental procedural rights. *Revista del Instituto Colombiano de Derecho Procesal*, 48, 3ss.

Liakopoulos, D. (2020). The protection of personal data according to CJEU and ECtHR jurisprudences. *Journal of Digital and Data Law*, 6, 135-191.

Marchal Escalona, N. (2022). The New European Framework on the Service and Taking of Evidence Abroad: Towards a Digitalized European Judicial Area. *Revista Española de Derecho Internacional*, 74 (1), 161ss.

Mellone, M. (2014). Legal Interoperability in Europe: The cases of the European payment order and the European small claims procedure. In F. Contini, G.F. Lanzara (eds.). *The circulation of agency in e-justice: Interoperability and infrastructures for European transborder judicial proceedings*. ed. Springer, Berlin, 240-264.

- Miloud, D.B., Nicolau, C. (2003). “e-Evidence Digital Exchange System (eEDES). In M.A. Biasotti, F. Turchi (eds.). *European Investigation Order. Where the Law Meets the Technology*. ed. Springer, Cham, 69-95.
- Nuyts, A. (2014). Les arrêts Lippens et ProRail: retour sur l’exclusivité de la réglementation européenne de collecte des preuves. *Journal des Tribunaux*, n° 6573, 557-565.
- Ontanu, E.A. (2023). Cost of Decentralised IT System. In A. Anthimos, M.R. Isidro (eds.). *The European Service Regulation. A commentary*. Edward Elgar Publishers, Cheltenham, Northampton, 258-259.
- Ontanu, E.A. (2023). The digitalisation of European Union procedures: A new impetus following a time of prolonged crisis. *Law, Technology and Humans*, 5 (1), 93-110.
- Rirchard, V. (2021). La refonte du règlement sur l’obtention des preuves en matière civile. *Revue critique de droit international privé*, 110 (1), 72ss.
- Velicogna, M. (2021). Cross-border Civil Litigation in the EU: What Can We Learn From COVID-19 Emergency National e-Justice Experiences?. *European Quarterly of Political Attitudes and Mentalities*, 10 (2), 1-25.
- Velicogna, M., Lupo, G. (2017). From Drafting Common Rules to Implementing Electronic European Civil Procedures: The

Rise of e-CODEX”. In B. Hess, X.E. Kramer (eds.). *From Common Rules to Best Practices in European Civil Procedure*. Oxford University Press, Hart Publishing, Nomos, Oxford, Oregon, Baden-Baden, 197-390.

Vicario Perez, A.M. (2024). Digitisation in civil judicial cooperation in the European Union: An analysis of its evolution. *Revista Eletrônica de Direito Processual*, 25 (3), 108-125.